

Thomas Jefferson, Nature’s God, and the Theological Foundations of Natural-Rights Republicanism

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Abstract: While the role of theology in Jefferson’s political thought and its implications for how we should understand the role of “Nature’s God” in grounding natural-rights republicanism are topics of ongoing scholarly interest, scholars have missed important continuities between Jefferson’s natural-law theory and that of classical, theistic natural-law. Many scholars who have considered Jefferson in this light have emphasized Jefferson’s discontinuity and even subversion of that tradition. In critical dialogue with this vein of scholarship, we argue that Jefferson espouses a creational metaphysics and a natural-law theory of morality that has surprising continuities with classical natural-law. We seek to shed new light on Jefferson’s theory of the moral sense and his the earth belongs to the living principle, which we contend encapsulates his theistic understanding of equality and property.

INTRODUCTION

How did Thomas Jefferson understand the essence and role of Nature’s God in structuring the theoretical framework of natural-rights republicanism? In the Declaration of Independence, the Continental Congress

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invoked the “Laws of Nature and of Nature’s God” to claim title for the United States to an independent sovereign existence “among the powers of the earth.” Among the truths the colonists held out to be self-evident was, to borrow Lincoln’s formulation, the proposition that “all men are created equal” and “endowed by their Creator with certain unalienable Rights.” After listing 27 separate grievances against King George, the Declaration closed with an appeal “to the Supreme Judge of the world” and a professed “reliance on the protection of divine Providence.” Nature’s God is presumably, though not explicitly, the same being as the Creator, Supreme Judge, and providential Protector invoked elsewhere in the Declaration.

On the surface, at least, the Declaration’s various references to God thus seem to be compatible with the Congregationalist, Episcopalian, Catholic, Quaker, and Presbyterian traditions represented by the members of the Continental Congress and thus an ecumenical expression of theistic belief. If not a Christian document, the Declaration is a theological-political document that appears compatible with the broad swath of theological beliefs held by Americans in the colonial era. Historically, this makes sense: The aim of the Declaration was to unite the colonists, and so we should expect any theological references to transverse the differences among major religious sects. On this reading, the theological references in the Declaration are evidence of a broad public consensus among American colonists in the late 18th century that God is the creator of the cosmos, independent of nature, both moralistic and provident, whose existence is profoundly relevant to the theoretical foundations of rightful political rule.

Yet some scholars suggest that the natural theology invoked by the Declaration is subtly (and intentionally) subversive of traditional biblical and philosophical theology. Nature’s God, they insist, is *not* the God of classical theism, whose existence, goodness, justice, and providential governance of the universe was thought to be knowable and demonstrable by reason. Nature’s God is instead allegedly tied to the modern natural-rights philosophy developed by Hobbes, Spinoza, Locke, and others as part of a larger project to pour the new wine of secular liberal individualism into the old wineskins of the classical theistic natural-law tradition. On this view, Nature’s God is a pantheistic being who radically challenges and supplants the God of classical natural-law. Nature’s God is instead tantamount to the rational organizing principle of the universe and is thus radically different than the providential, moralistic creator of the classical tradition (see Pangle 1987; 2007; Stewart 2014; Strauss 1953; 1997; and

Zuckert 2002 all discussed below). Call this the subversive theology thesis.

In this article, we challenge the idea that Jefferson was a vehicle of subversive theology, so understood. We argue that Jefferson understood Nature's God to be a creating, particularly providential, and moralistic being, whose existence and causal relation to the world was essential to the foundations of natural-rights republicanism. For Jefferson, belief in such a God is warranted on the basis of reason, and thus is akin to the propositions that Thomas Aquinas called the *preambula fidei*. Jefferson's theology was essential to natural-rights republicanism in that God's creation and ordering of man to happiness grounded the moral law, human moral equality, and the natural right of property. John Dewey noted in an essay originally published in 1940 that although Jefferson's

... rejection of supernaturalism and of the authority of churches and their creeds caused him to be denounced as an atheist, he was convinced, beyond any peradventure, on *natural* and rational grounds of the existence of a divine righteous Creator who manifested his purposes in the structure of the world, especially in that of society and human conscience (Ginsburg 1967).

Jefferson's adopted motto, *Rebellion to Tyrants is Obedience to God*, reflects his belief in a moral order established by God's will, which human will must accord with to be just.

Jefferson's theism was not orthodox. It is well-known, for example, that he excised various miracles from the Gospel narratives in his private collation of excerpts. As Annette Gordon-Reed and Peter Onuf note, Jefferson saw those miracles "as distractions from the real messages that the philosopher, whom he deliberately called 'Jesus of Nazareth,' brought to the world" (Gordon-Reed and Onuf 2016, 274). Although Jefferson did not adhere to the major tenets of orthodox Christianity as presented in the religion's earliest creeds, he nonetheless affirmed the existence of a God of Nature whose attributes included being a providential, moralistic creator. By drawing from Jefferson's writings across his career, we suggest that the fundamental lineaments of his natural theology were stable from the nation's birth through its sesquicentennial. There is thus a unity to Jefferson's theological references that allow us to draw evidence from later writings to support our interpretation of the meaning and importance to Jefferson of the references to Nature's God in the Declaration.

Although he was not an orthodox religious believer, Jefferson developed a natural theology that has surprising continuities, and some important discontinuities, with the classical natural-law tradition. There is an ongoing scholarly interest in Jefferson's natural theology (see, e.g., Bailey 2015; Anderson 2015), but the ample body of literature on Jefferson's theology has so emphasized its novelty that it has missed important continuities between Jefferson and classical theistic natural-law. We argue in the following sections that Jefferson followed the classical tradition in affirming the existence of a personal creator independent of nature who imbued nature with lawful properties and a rational design. In contrast to the classical tradition, however, Jefferson insisted that moral knowledge is known primarily through sentiment rather than reason. Each of these claims has important implications for how Jefferson understood the role of Nature's God in grounding the political claims in the Declaration of Independence.

How Jefferson understood the theological foundations of natural-rights republicanism is an important question in the history of political thought — but it is more than that. Jefferson's natural theology ventures answers to three separate but interrelated questions that have long been of interest to normative political theorists: What is the ultimate source or ground of nature? Is nature teleological? And how do we come to know the moral dictates of nature? Our argument — that Jefferson espoused a natural theology of creation has implications for how we interpret the Declaration of Independence, and challenges the conclusion of recent scholarship that Jefferson's Declaration stands for the “emancipation of the political order from God” (Stewart 2014, 8) — a conclusion shared by prominent secularist readings of the Declaration (see, e.g., Allen 2015, 138).

Although there is a large body of scholarship arguing for the compatibility between theism and Lockean natural-rights republicanism in late 18th-century American political thought (see Kloppenberg 1998; Diggins 1984; Shain 1996 Dworetz 1990), debate on the vexed question of the relationship between theism and the modern Lockean natural-rights tradition has not subsided. Our argument provides a new approach: taking Thomas Aquinas as a standard for classical, theistic natural-law theory, we demonstrate that Jefferson's thought espouses a number of surprising continuities with that tradition. In the sections below, we argue that Jefferson professes a particular species of providential, moralistic theism. What is unique about Jefferson is that he attempted to wed moral and metaphysical Epicureanism with a rationalized, theistic metaphysics and a Christian ethics.

Jefferson's set of beliefs thus does not lend itself to a fast and ready label. Indeed, Jefferson professed to be "of a sect by myself" (Jefferson 1819). Still, we can consider the theoretical and practical vectors of Jefferson's thought as follows. First, Jefferson affirms a creational metaphysics that is bound up with his providential-moralistic theism. Second, and precisely in virtue of this creational metaphysics, Jefferson espouses a natural-law eudaimonism theory of morality. The idea of existential dependence underpins Jefferson's Lockean, interlocking ideas about property and fundamental human moral equality. Although various references to God in the Declaration were added and modified in the editorial process of drafting the Declaration, Jefferson's original rough draft does explicitly derive "inherent & inalienable" rights from humanity's "equal creation" (Dyer 2012, 7–11; cf. Allen 2015, 72; Maier 1997, 148–149). Our argument demonstrates that Jefferson also affirmed the theological concepts of divine omnipotence, providence, and justice invoked elsewhere in the final draft of the Declaration. Because our account of Jefferson's creational metaphysics, natural-law ethics, and theory of property will proceed as a dialogical critique of the subversive theology thesis, we will begin with a further elaboration of that thesis.

THE SUBVERSIVE THEOLOGY THESIS

The subversive theology thesis can be traced to the interpretation of early modern political philosophy in the writings of Leo Strauss. By his own profession, from his earliest writings forward, the theologico-political problem was *the theme* of his writings (Strauss 1979, 1). Strauss's exploration of the problem began with his study of Spinoza and Maimonides and continued through his magnum opus, *Natural Right and History*, which opens by quoting the Declaration's proclamation of self-evident and divinely-sanctioned truths (Strauss 1953, 1).

According to Strauss, Spinoza's confrontation with Maimonides is a philosophic confrontation with divine revelation that can be boiled down to one question: "Creation of the world or eternity of the world?" (Strauss 1997, 177). Spinoza presented *Deus seu Natura*, God or Nature, as the infinite, indivisible, and eternal substance of the universe (Spinoza 1677, Part IV, Preface) and argued for the eternity of matter. Belief in the doctrine of the eternity of the world, Strauss asserts, is "characteristic of the philosophers" (Strauss 1997, 149) and incompatible with a doctrine of divine creation.

Although ancient philosophers had spoken of “essences” to identify regularities and order in the world, modern political philosophers spoke most often of the “laws of nature” when discussing observable patterns and causal relationships in the world. According to the subversive theology thesis, the very notion of divine creation of the universe places a Person above the “impersonal necessities” of nature, thereby radically subordinating and ultimately vitiating the possibility of rational knowledge of nature (Strauss 1981, 39–43). The ordering principle of a created universe would instead be a rationally inscrutable divine will. Spinoza is then one expression of the philosopher’s attempt to give an account of nature that preserves the intelligibility and rationality of the world, and therefore the very possibility of philosophy. On this account, the Declaration’s philosophic appeal to the Laws of Nature and of Nature’s God is subtle way of emphasizing Nature and undercutting theological accounts of divine creation. The Spinozistic or philosophic doctrine of *Deus seu Natura*, Strauss suggested, deeply influenced John Locke (Strauss 1953, 210–211). This implied that the hidden intellectual source of “Nature’s God” in the Declaration of Independence is Spinoza, inasmuch as the Declaration is deeply Lockean.

The subversive theology thesis has been taken up and defended in subsequent scholarship. In one of its most sophisticated defenses, Thomas Pangle identifies “Nature’s God” with Locke’s God, and contends that Locke’s key philosophical-theological doctrines were “virtually identical” with Spinoza’s (Pangle 1987, 239, 304). More recently, Matthew Stewart has argued that, inasmuch as Jefferson traded in Lockean metaphysical coin, it was with the dark money of Spinoza, and therefore the phrase “Nature’s God” implies Spinozistic pantheism which, Stewart tells us, is “really just a pretty word for atheism” (Stewart 2014, 5).

JEFFERSON’S CREATIONAL METAPHYSICS

Contrary to the subversive theology thesis, we contend that Jefferson’s natural theology represents a genuine attempt to synthesize elements of Epicurean materialism with a classical theistic metaphysics. A number of scholars have argued Jefferson was a theist (e.g., Boorstin 1948; Sanford 1984; Sheldon and Dreisbach 2000; Buckley 2004; Sandoz 2006; Frazer 2012). Scholarship has tended to focus on the modern and rationalist Protestant influences on Jefferson’s religious thought, such as Bolingbroke, Priestley, or other English deists. Others have noted the

influence of the 17th-century French priest and philosopher Pierre Gassendi, albeit with scant discussion (Yarbrough 1998, 161–162). As an eclecticist, it should not be surprising that various lines of influence on Jefferson’s theology can be traced. Here we fill in a gap in the literature by showing important continuities between Jefferson’s theology and the theism of classical natural-law theory.

Jefferson constantly averred the doctrine of creation, that God “called [man] into being” (Peterson 1984, 1162). Note this is *not* a claim about the age of the world, or even a denial that the universe exists eternally. (For his part, Jefferson thought that the empirical evidence of Virginia’s landscape indicated eons of geological time and therefore the improbability of “young earth” creationism.) The keystone of creational metaphysics is the *existential dependence* of the natural world on something outside the chain of material causes and effects. To be existentially dependent is to be insufficient to sustain one’s own existence. The classical tradition holds that God alone stands outside of finite causal chains, and upholds all things in being. This implies that God is all-powerful, since having complete power over nature is a feature of omnipotence. But God is not merely all powerful according to the tradition. God is also just, and human justice is an imperfect participation in a divine order of justice.

Consistent with the attributes of God in the classical tradition, Jefferson conjectures that a slave revolution would be possible in virtue of “nature and natural means only,” but considering the injustice of slavery Jefferson indicated it was *probable* by “supernatural interference” in virtue of God’s omnipotence and justice (Peterson 1984, 289). Jefferson has of course been accused of atheism from the very beginnings of the republic, and many have been willing to write off theological claims such as these as mere rhetorical flourishes at odds with his deeper philosophical commitments. Accusations of atheism began with many of his contemporaries, including the famous attack by Theodore Dwight, an early leader of the Federalist Party and grandson of the prominent 18th-century American theologian Jonathan Edwards. Dwight’s argument is of interest, because, like the subversive theology thesis, it suggests theism cannot be affirmed alongside materialism. Dwight’s reasoning goes like this: Neither Jefferson nor any other person in history has ever discovered a material Supreme Being. Jefferson disclaims the existence of an immaterial Supreme Being. Therefore, Jefferson is an atheist (Dwight 1839, 363). It is Dwight’s first premise that bears the weight of the syllogism, but upon closer examination the argument buckles.

It is logically possible that one could affirm (a) the existence of a material Supreme Being while also holding (b) the Supreme Being is not materially observable or (b₁) the Supreme Being has not yet been materially observed. In fact, Jefferson affirms (b), inasmuch as Jefferson affirms the classical position that we cannot have quidditative knowledge of God (Cappon 1988, 592). And yet, Jefferson affirms, deploying something like the *a posteriori* fifth way reasoning of Aquinas, that God must exist to explain the evident purposiveness in the natural world. Jefferson's partially reconstructed reasoning goes like this (Cappon 1988, 458, 468, 562, 592):

1. The senses provide reliable information about the real world.
2. The presence of other bodies is apparent to the senses, which is called "matter."
3. Matter exists.
4. The senses apprehend matter changing place, an event that is called "motion."
5. Motion exists.
6. Regularity in motion is observable that is "perfectly organized" to conduce to the good of the whole.
7. Therefore an intelligent and powerful Agent who orders the whole universe exists.
8. But motion is impossible without the contact of a body with another body.
9. Therefore the intelligent and powerful first cause must be material.

With the various French philosophes Diderot, D'Alembert, D'Holbach, Jefferson affirmed materialism and mechanism, but against them he inferred the existence of a first cause. In *D'Alembert's Dream*, Diderot had laid out a materialistic and atheistic vision of the universe. Jefferson is not a Diderotian. Jefferson rather traces his creed to Locke, whom he apparently understands as a materialist theist (Cappon 1988, 562).

Modern materialistic theism can be traced from Thomas Hobbes, who labored mightily to wed materialism and theism, and from whose friend and fellow member of the Mersenne circle, Pierre Gassendi, Jefferson sought to glean genuine Epicurean doctrines to be published along the genuine or primitive doctrines of Christ. We do not dispute that Hobbes was a "subversive" theologian — and we do not pretend to resolve the ongoing scholarly dispute about whether Hobbes was really an atheist — but we maintain that it is at least plausible to read Hobbes as a theist whose "subversiveness" was not atheistic (cf., Martinich 1992; Cooper 2013). While Hobbes and Gassendi concurred both as to the truth of

the new mechanistic science, and the truth of theism, Hobbes differed from the latter in his thoroughgoing materialism. Alongside his atomistic physics, Gassendi had maintained God and intellectual operation were immaterial. Yet, like Gassendi, Hobbes labored to synthesize a materialistic and mechanistic universe with a traditional conception of God as non-identical with the universe, and the omnipotent, omnibenevolent, and omniscient creator of *all* things, including the substrate of the material world (cf., Gassendi 1964, *Opera* I, 163, 234, 280).

While it has been pointed out that Locke was a successor to Hobbes and Gassendi in important ways, it has been often overlooked that Locke too affirmed existential dependence. Contemporary scholarship has demonstrated, minimally, that it is plausible to read Locke as a sincere theist (cf., e.g., Dunn 1969; Forde 2013; Forster 2005; Waldron 2002). For his part, Jefferson took Locke to be a materialist theist, and he defends this view as true to uncorrupted Christianity.¹ Inasmuch as Jefferson's theism was framed by Lockean theology, it was framed by a creational metaphysic that expressed coyness about the age of the world, but which held, whether eternal or not, it was existentially dependent: "[T] here is nothing which He cannot make exist each moment He pleases. For the existence of all things, depending upon His good pleasure, all things exist every moment that He thinks fit to have them exist" (Locke 1975, *Essay Concerning Human Understanding* [hereinafter, "*E*"] II.15.12).

Jefferson therefore might have cited Gassendi, Hobbes, or Locke when he suggested that an eternal universe was compatible with its createdness. Yet, Jefferson instead cites Thomas Aquinas's argument that there is no logical contradiction in an eternal and created world. Jefferson apparently had knowledge of Aquinas's teaching derivatively via the Salamanca school Jesuit, Francisco de Toledo (whose training in Thomism was under the noted Thomist Domingo de Soto, himself a student of the greatest Thomist of the 16th century, Francisco de Vitoria): "Some early Christians," Jefferson noted, "indeed have believed in the coeternal pre-existence of both the Creator and the world, without changing their relation of cause and effect. That this was the opinion of St. Thomas, we are informed by Cardinal Tolet..." (Cappon 1988, 592–593).²

Inspired by the new mechanical science, the early moderns rejected key doctrines of Aristotelian physics, and many sought to rehabilitate various doctrines of ancient materialism and, specifically, Epicureanism. Yet, those like Gassendi, Hobbes, and Locke sought to incorporate these doctrines within a creational metaphysic, where God was the author of all

being, including atoms or matter. Inasmuch as they expressed openness to an eternal universe, the path had already been paved by Aquinas, who sought to refute the claim of some Augustinians of his day that Aristotle's doctrine of an eternal universe was radically antithetical to theism. In *De Aeternitate Mundi*, Aquinas recalled the image offered by Augustine of the eternal foot in eternal sand. An effect can be existentially dependent on a cause, without a priority of time of cause to effect, just as a footprint has always been dependent on the foot, even though there is not a relationship of temporal priority. Thus, Aquinas maintained that there was no logical contradiction in maintaining that the universe always existed *and* was created. The distinctive move of the moderns, which Jefferson follows, was to wed materialism with creationism. For Jefferson, then, creation by a providential, moralistic God is not antithetical to the eternal existence of matter. Some have misunderstood Jefferson on this point, presuming that materialism and creation are antithetical (see, e.g., Owen 2007, 499).

So far we have suggested that Jefferson held there were theistic truths about the first cause that could be known by reason independent of faith. Jefferson draws out the implications of this point, arguing that fideist arguments that God's existence cannot be demonstrated by reason are misguided, and that the profession of theistic belief of at least one million out of every one million and one people across human history counts in its favor. Jefferson's democratic faith is apparent here — but he explicitly denies that it is a Spinozistic democratic faith; for, one of the reasons Jefferson gives for rejecting fideism's anti-philosophical-theology is precisely its effect of strengthening Spinoza and his disciples (Cappon 1988, 592).

Jefferson thus affirms the existential dependence of all finite things on a being who is not identical with the whole of finite things. Even at a key moment when Jefferson enunciates the philosophical first principle, deemed Epicurus' "dangerous idea" by Stewart — that *from nothing, nothing comes* — Jefferson presupposes the truth of creation. For Jefferson, the vanity of man denying that first principle is the equivalent of erasing "the original sentence of his maker" to labor for his food (Looney 2011, Vol. 9, 328–331). As Aquinas had explained, God could have created an eternal universe *ex nihilo*, without positing temporal priority of non-being to being. We turn now to the difference God's existence makes for Jefferson's theories of the moral sense, equality and property.

JEFFERSON'S MORAL SENSE

Writing to his daughter Martha, Jefferson explained the moral sense. Jefferson set up the lesson in light of a rebuke of millenarianism:

I hope you will have good sense enough to disregard those foolish predictions that the world is to be at an end soon. The almighty has never made known to any body at what time he created it, nor will he tell any body when he means to put an end to it, if ever he means to do it (Boyd 1951, Vol. 6, 380).

Jefferson continued to instruct his daughter that the true way to be prepared for the last day is “never to do or say a bad thing.” Jefferson explained that “Our maker has given us all [a] faithful internal Monitor” which, whenever one is about to say or do something wrong, will tell you that you ought not to do it. The faculty of conscience, Jefferson instructed, should always be obeyed, as the only sure preparation for the end of the world.

In his classic study of Jefferson’s moral sense, Garry Wills argued that Jefferson was influenced most by the Scottish moral-sense school, particularly the writings of Francis Hutcheson and Thomas Reid (Wills 1978, 167–206). Still, Wills downplays the fact that Reid and Hutcheson affirmed the older Judeo-Christian and medieval structural claim that God implanted the moral sense (Hutcheson 1726, §7.2; Reid 1788, III.7). Indeed, it is on the basis of the premise that the maker has given this monitor “to us all,” in virtue of God’s creation of all human beings, that Jefferson appeals to the judgments of common moral sense in his *Summary View* as having binding force. The Declaration’s affirming of precepts knowable by reason cannot be understood apart from of its affirmation of the existence and rule of Nature’s God.

The conscience or moral sense is “as much a part of our constitution as that of feeling, seeing, or hearing; as a wise creator must have seen to be necessary in an animal destined to live in society” (Cappon 1988, 492). As Jefferson goes on to explain, “The Creator would indeed have been a bungling artist, had he intended man for a social animal, without planting in him social dispositions.” This is simply an observation that the directedness of man to live in society is evidence of wise workmanship, of the “care of the Creator,” flowing naturally from a mind convicted of the existential dependence of all finite things (Looney 2011, Vol. 7, 412). As Dewey notes, Jefferson summarized his democratic faith in the following

syllogism: “Man was created for social intercourse; but social intercourse cannot be maintained without a sense of justice; then man must have been created with a sense of justice” (Ginsburg 1967, 164).

Jefferson considers two common objections to his belief that God implants a moral sense into all men. The first is the empirical fact that there exist persons without a moral sense. There are sociopaths in the world. Jefferson believed that Napoleon was a prime example of a sociopath. Napoleon was a “moral monster” who had retarded French progress toward enlightened government and whose destruction of millions of lives proved that “nature had denied him the moral sense, the first excellence of well organized man” (Cappon 1988, 589). But if nature — which for Jefferson is God’s art — generates sociopaths, then how can the moral sense be “natural”? In answer to this objection, Jefferson sounds like a classical natural lawyer:

It is true that [the moral sense is] not planted in every man, because there is no rule without exceptions; but it is false reasoning which converts exceptions into the general rule. Some men are born without organs of sight, or of hearing, or without hands. Yet it would be wrong to say that man is born without these faculties, and sight, hearing, and hands may with truth enter into the general definition of man. The want or imperfection of the moral sense in some men, like the want or imperfection of the sense of sight and hearing in others, is no proof that it is a general characteristic of the species (Looney 2011, Vol. 7, 414).

In other words, to say that conscience is “natural” does not mean that it obtains without exception in every member of the human species. It is rather that it obtains in all *properly functioning* human beings. In classical natural-law theory, the proper functioning of organisms is understood in terms of the proper functioning of each of its parts, for the good of whole. Animals, including human animals, are in turn seen as parts within a larger cosmic whole that is itself imbued with purpose. Jefferson expresses such a view when he unequivocally avows a teleological conception of the universe:

I hold (without appeal to revelation) that when we take a view of the Universe, in it’s parts general or particular, it is impossible for the human mind not to perceive and feel a conviction of design, consummate skill, and indefinite power in every atom of it’s composition (Cappon 1988, 592).

Gordon-Reed and Onuf note that according to Jefferson God did “reveal providential purposes to enlightened observers who discerned the lawful properties and intelligent design of his creation” (Gordon-Reed and Onuf 2016, 281). Jefferson’s teleology doubtless is closely tied to his empirical and scientific bent of mind. He cites the movements of the heavenly bodies, the geographical structure of the earth, and the configuration of vegetable and animal bodies. Regarding the latter, in a parallel passage in an earlier letter to Adams, Jefferson describes the “palpable existence of final causes” evidenced in bodily organs such as the eye and the ear. The function of the eye is to see; the function of the ears is to hear. Jefferson thought these proofs of intrinsic teleology in the universe were “obvious to the senses” and sufficient to answer deniers of teleology, just as getting up and walking across the room is sufficient to refute the denier of motion (Cappon 1988, 468).

God fashions the moral sense in man to orient him to life in society with others. As in Aristotelian-Thomistic political thought, man’s telos is a kind of flourishing that cannot be achieved outside of membership in society. And in common with Thomistic political thought, God’s creative act impresses this purposiveness upon man. This is the frame within which Jefferson understood the Lockean theory of natural-rights. As Vincent Phillip Muñoz notes, within a recent discussion of the founders’ conception of the natural right to religious freedom, Jefferson’s moral philosophy assumed that “God created nature (including human nature) and that this created nature establishes moral guidelines for human behavior” (Muñoz 2016, 3).

Because Jefferson’s moral instinct grasps natural-law precepts, it can be compared to Aquinas’s *synderesis*, or what might be called deep conscience. For Aquinas, *synderesis* is a fundamental habit of first principles, and the most basic principle of practical reason is that good is to be done and evil is to be avoided. What this means is that human persons are ordered to the good in general for the purpose of their integral flourishing. This is “habitual” since, although reason grasps human goods and appoints the precepts of morality, one may or may not reflect upon the first principles as first principles.

Aquinas draws an analogy to the theoretical order, which is governed by the first principle of non-contradiction. We have an intuitive and implicit grasp of being (and therefore the principle of non-contradiction) when we compose and divide, when we assert and deny. But we usually don’t reflect on the principle of non-contradiction in mundane affirmations and negations. Similarly, we have an intuitive grasp of

good as that which is fulfilling, complete, or perfective when we wish, desire, want, will, and the like. Every person has, minimally, a general and confused knowledge of being and goodness as governors of the theoretical and practical orders. Aquinas's claim is that there is an essential core of goods that is common to all human beings — goods including bodily life and health, family and childrearing, friendship (including civic friendship), knowledge, and religion (according one's will with God's) — in that they are desirable objects of pursuit for all persons. *Synderesis* is thus a habitual rather than intellectual grasp of human goods and a virtuous way of life.

In this context, let us recall a key passage of a letter from Jefferson to Adams explaining his view of conscience:

Man was destined for society. His morality, therefore, was to be formed to this object. He was endowed with a sense of right and wrong merely relative to this. This sense is as much a part of his nature as the sense of hearing, seeing, feeling; it is the true foundation of morality...It is given to all human beings in a stronger or weaker degree, as force of members is given them in a greater or less degree. It may be strengthened by exercise, as may any particular limb of the body. The sense is submitted, indeed, in some degree, to the guidance of reason; but it is a small stock which is required for this; even a less one than what we call common sense. State a moral case to a ploughman and a professor. The former will decide it as well and often better than the latter because he has not been led astray by artificial rules (Boyd 1955, Vol. 12, 15).

From these and other passages so far quoted, we can see that Jefferson's difference from Aquinas and the classical natural-law tradition is not in the divine pedigree of conscience, nor the orientation of human beings toward happiness, nor in the social character of that orientation. Inasmuch as Jefferson's understanding of happiness was a Gassendist notion of tranquility, it was essentially a eudaimonist conception whose contrast with the Aristotelian-Thomistic ideal of rational self-mastery is more stylized than substantive (cf., Sarasohn 1996).

But doesn't Jeffersonian moral sense raise sentiment above reason? Although Jefferson is at times equivocal about the relative priority of sentiment and reason in his epistemology, many of his references do prioritize moral sentiments over intellectually-derived moral principles.³ We also know that Jefferson read and was deeply influenced by Henry Home, Lord Kames (Jayne 1998, 62–86), and there are strong linkages between Jefferson's moral philosophy and the Scottish moral sense

school. Even here, however, the break with the classical tradition is not as stark as one would think.

Although Jefferson ascribes some degree of autonomy to the moral sense to operate independent of rational inquiry, he appears to be thinking of abstract theoretical reasoning. The “small stock” of reason would then refer to theoretical or philosophical training. If correct, Jefferson is not denying that, insofar as humans are rational animals, all of their powers are informed by reason in its practical function. However different in their structure, Jefferson’s moral sense and *synderesis* are functional equivalents in that they are the medium of natural-law precepts, implanted by God, in virtue of which the act of conscience binds or morally obligates (Boyd 1958, Vol. 15, 363). Moreover, Jefferson’s scorn for the professor and preference for the humble ploughman indicates a deeper agreement with Aquinas about connatural moral knowledge.

According to Jefferson, Nature’s God creates human beings with a moral sense. It is precisely in virtue of that divine pedigree that the principles of moral common sense entail obligation. For Jefferson, it is the laws of nature and Nature’s God that bind kings and parliaments and men to respect natural-rights. The Declaration is a part of what Elizabeth Anscombe called the “law tradition of ethics,” because it rests on providential, moralistic theism (Anscombe 1958, 5). The classical tradition saw no contradiction between the freedom and omnipotence of God and essences or laws of nature, just as there is no contradiction between God’s absolute power and God’s ordained power, as manifested in nature. It thus turns out to be quite significant that Jefferson cites Aquinas in favor of Gassendi, Hobbes, or Locke on existential dependence, the latter of whose accounts of God’s power were voluntaristic, virtually eliminating essential forms from their ontology and subjecting the laws of nature to the divine whim (cf. Osler 1994). These theistic foundations of Jefferson’s thought have important implications for his understanding of natural equality and the natural right to property.

JEFFERSON’S LOCKEAN, THEISTIC FOUNDATION FOR EQUALITY AND LIBERTY

It remains to be shown what difference Nature’s God makes for the foundational concept of human equality. We contend that this lies in the notion of property and ownership. While various commentators have wondered at Jefferson’s exclusion of the natural-right of property from the Declaration,

Jefferson did adhere to a Lockean understanding of property rights (Zuckert 1991, 158–163). Yet, we would go further, and argue that Jefferson adopts Locke’s theistic account of human equality and property. To show this, we will first set forth reasons for concluding that Locke’s theories of equality and property are theistic. In a recent article, Adam Seagrave demonstrates that Locke’s affirmation of self-ownership constitutes no difficulty for the theistic interpretation, since a human being can be the concurrent property of himself and God, with the latter having a higher dignity precisely in virtue of man’s existential dependence on God (Seagrave 2011). Our argument moves beyond this initial hurdle and focuses on Locke’s theory of property in light of his critique of patriarchalism and shows how non-theistic accounts of Locke’s argument are subject to a devastating *reductio ad absurdum*. We will then turn to consider how Locke’s theory may illuminate Jefferson’s revolutionary natural-rights republicanism.

Locke put forward what might be called an extensional theory of property, which he developed to show “how men might come to have a property in several parts of that which God gave to mankind in common, and that without any express compact of all the commoners” (Locke 1988, *Two Treatises of Government* [hereinafter, *TT*], II.25). The co-assumptions of fundamental equality (and therefore equal ownership) and liberty (and therefore the individual right of acquiring and keeping property) are manifest. In order to understand the essential role of God in Locke’s interlocking theories of property and equality, it is important to read the *Second Treatise* in conjunction with Chapter VI of the *First Treatise*. To recall, Locke’s critique of Filmer’s patriarchalism in the *First Treatise* proceeds in two broad stages. In the first stage, Locke takes on the various arguments Filmer gives to prove Adam’s regal sovereignty, and therefore natural subjection (*TT* I.15–I.77). In the second stage, Locke considers the “conveyance” of Adam’s sovereignty to future kings (*TT* I.78–I.169). Locke’s presentation in the first stage is logically divided in two chief parts that group Filmer’s different arguments together based on their kind. In the first chief part, Locke takes on arguments for paternal-regal authority based on divine positive right, and hence consists primarily in biblical argumentation. In the second chief part, Locke considers arguments for paternal-regal authority by natural-right and is constituted primarily by philosophical argumentation, or argumentation proceeding by premises derived from reason. It is this latter part of Locke’s argument that concerns us here.

When Locke turns to consider Filmer's case for patriarchy on the basis of natural-right, he signals not only the great importance of defeating the argument but also recalls what is at stake. Filmer contended that Adam and his heirs are kings by right of fatherhood, which is to say, human beings by their very birth are fettered. Locke remarks that Filmer so frequently mentions this argument that it should be considered "the main Basis of all his Frame" and is the "Foundation of all [patriarchalist] Doctrine" (*TT* I.50, 51). Locke's language recalls the building metaphor he used before in I.6, where he indicated that the doctrine of natural liberty and equality was staked on the refutation of Filmer. Locke then restates the mutually exclusive alternatives, and for the first time since I.6 explicitly affirms his own rival doctrine in the first person: "If all men are not, as I think they are, naturally equal, I'm sure all Slaves are;" (*TT* I.51). Having been begotten by one's father *either makes one a slave or it does not*. If it can be shown that it does not, then the road is open for natural freedom and equality.

In our view, the significance of Chapter VI of the *First Treatise* has been misunderstood, downplayed, or overlooked by Locke's editor and proponents of the subversive theology thesis alike (see Laslett's [1988] note on *TT* I.52-55; cf., Strauss 1953, 218, n. 75; Zuckert 1979, 62; Mansfield 1979, 29-32; Tarcov 1984, 57-59, 66-69; Corbett 2012; Stewart 2014, 357-358). Chapter VI is important for understanding Locke's argumentative strategy, but not only for that. Locke signals that in this chapter he will advance arguments whose *content* is of critical importance to the integrity of the whole argument of the *Two Treatises*. By considering Filmer's argument for "natural right of dominion over his children," Locke is tacitly pointing us ahead toward the *Second Treatise*, where he will lay out his own doctrine of equal natural rights and largely proceed by philosophical argumentation.

What is implicit at the beginning of Chapter VI becomes explicit toward the end of the chapter, when Locke summarizes his arguments against Filmer and then asserts fundamental liberty and equality in language almost identical to that used in the *Second Treatise* (I.67; cf., II.6). Locke is laying the groundwork for his theory of natural-rights in this chapter — in particular, his doctrine of property, as distinct from fatherhood. The arguments made here will justify his claim that property and fatherhood are as different as "lord of a manor and a father of children" (*TT* I.73). That Locke intends us to read Chapter VI of the *First Treatise* in conjunction with Chapter V in the *Second Treatise* is signaled again at the beginning of the latter, when Locke begins by restating his

arguments regarding divine positive right that he makes against Filmer, recalling the two part structure of stage one in the *First Treatise* (TT II.25). The groundwork Locke lays in Chapter VI of the *First Treatise* consists in showing that the relationship of parents to their children is not one of proprietor to property, by virtue of the former having generated the latter.

Filmer's axiom of natural parental right is: *generatione jus acquiritur parentibus in liberos* (by generation a right over children is acquired by parents). Filmer takes this axiom to imply a proprietary dominion of fathers over their children — but does not explain why. Locke thus sets out to grapple with the argument that fathers have patriarchal dominion over their children in virtue of giving them “life and being” (TT I.51). Locke goes on to indicate that the truth of this principle or argument is really the heart of his dispute with patriarchy, because of the weight it bears and because of what its falsity would entail.

This is the *only proof it is capable of*: since there can be no reason, why naturally one man should have any claim or pretense of right over that in another, which was never his, and which he bestowed not, but was received from the bounty of another (TT I.51).

Locke is tacitly pointing us to his extensional theory of property. According to Locke, if something is a *part* of you, then it is *your property*. The first or most basic parts of a person are his *material parts*, which is to say, his bodily parts. While one's material parts can change over time, Locke holds that consciousness unites one's shifting material parts, as well as one's actions, over time into one person. Thus, as a conscious thinking being, one can justifiably take ownership of his material parts and his actions, as constituting his person (E II.27.9-18). Therefore, “man has a *property* in his own *person*: this no body has any right to but himself” (TT II.27). But one can *extend* one's person by transformative acts of one's intelligence and body performed on things in nature, which Locke calls labor of the body or work of the hands. This is how commonly held things are removed from the common stock and placed under the private dominion of a person.

When Locke's extensionalist account of property is read in conjunction with the first treatise, we are faced with a puzzle. Why don't parents appropriate the product of their reproductive labor? After all, if the parties to a reproductive union own their own persons, would not any product created by the joining of their reproductive parts — which they

own — be, by that very fact, their *property*? Moreover, why wouldn't the mother have an equal, "if not the greater" share by virtue of her disproportionate share of the labor, which includes a literal extension of her person, "nourishing the child a long time in her own body out of her own substance" (*TT* I.55)? The stakes are therefore quite high in this chapter. Locke must refute the claim that children are owned by virtue of their birth, if he is to open the path for his own thesis of natural liberty and equality. But his own doctrines of personhood, labor, and property would, at least initially, appear to entail joint parental ownership or even *maternal* dominion, a kind of matriarchalism.

Robert Nozick contends that there are four options by which Locke can forestall patriarchalist or matriarchalist child ownership on his own terms: by holding that (1) there is something intrinsic to persons barring them from being owned by their makers; (2) some conditions within the theory of property rights excludes reproductive labor from the forms of labor that yield ownership; (3) something about parents bars them from standing in the relevant ownership relation; or (4) parents do not really make their children (Nozick 2013, 432–433). Nozick's suggestion is that there might be a "secular" solution to the dilemma — that is, a solution that does not rely on (natural or revealed) theological premises.

Although a mother's body immediately nourishes the product of the reproductive labor in gestation — a process and burden with which Locke was intimately familiar, as when he was the primary physician for a woman with a high-risk pregnancy — Locke insists that this labor does not grant a maternal or parental title of ownership. The question is why. Notice how option (1) above, without further specification, is denied by Locke himself if we take his theology to play an essential role in his thought. To be an *imago Dei* does not *per se* shield one from being owned, since by that very fact one is owned by God. To posit a purely secular, Lockean intrinsic dignity is therefore question-begging. What about option (2)? Perhaps some condition of property acquisition excludes the products of reproductive labor from ownership, but the limiting condition cannot simply be an exclusion from property of products which issue from reproductive labor without committing the fallacy of special pleading.

The third option is also unpromising on Locke's terms. Paternity, Locke tells us in the *Essay*, is a *relation*. Relations are "mixed modes," as distinct from "simple modes," in that they are combinations of distinct ideas simple or complex. The idea of "paternity" is clear, according to Locke, in that it picks out a relationship between a father and his children, and

this is easy to conceive — easier to conceive of than the father or the children themselves (*E* II.25.8). Yet, the relation father-son is “very obvious to every one” just insofar as it considers a specific relation between two substances, *and nothing further* (*E* II.25.2). To give *cause* the name *father* is simply to signify that he has a child. But we don’t yet know what, if any, rights over that child he has just by calling him a father. So we are thrown back to considering whether patriarchalism is true.

Filmer’s argument can be restated as a *modus ponens*: If there are givers of life and being, then the givers have dominion over the recipients. Locke’s reply is *not* to deny the antecedent, for his theory of property implicitly accepts it, and at any rate such a reply would be logically fallacious. Locke’s reply rather is a version of (4): *human beings* do not bestow life and being on their offspring. The patriarchalists are so “dazzled” by monarchy that they have forgotten that God is the maker of all things: “*the author and giver of life; it is in him alone we live, move, and have our being*” (*TT* I.52).

In this biblical citation of Acts 17:28, Locke echoes the classical Judeo-Christian metaphysic of existential dependence, and introduces what will become an important theological ground for basic liberty and equality in the *Second Treatise*: the divine workmanship thesis (*TT* II.6; I.53). Neither fathers nor mothers nor both jointly own their children because *God* made them, and, therefore, God owns them. By positing God as an extrinsic source of life and being, Locke indicates that a transcendent being is the source of and preserver of the act of existence. Hence, if prospective parents really wanted to own their offspring, they would need

to give life to that which has yet not being, [which] is to frame and make a living creature, fashion the parts, and mould and suit them to their uses, and having proportioned and fitted them together to put into them a living soul (*TT* I.53).

God’s fatherhood “utterly excludes all pretense of title in earthly parents” (*TT* I.53). Locke then issues a stinging indictment of philosophy’s and medicine’s failure to discover the source or principle of life in creatures (*TT* I.52). If even the greatest scientists and philosophers cannot unlock the secret of — and therefore ability to manufacture — life, then no one can claim to have *made* it simply by participating in the process of generation. Because God is the sole author of being, the reproductive process *itself* is existentially dependent. While aspects of Locke’s theory of property are innovative, the idea of divine ownership is in continuity

with classical natural-law, where God is said to be *dominus* of all persons (Aquinas, T. nd. *Summa Theologiae*, I-II, 94.5, ad 2 [www.corpusthomicum.org] Accessed on March 4, 2017).

Locke's theological premise of divine workmanship is thus essential to grounding his theory of property — for without it, his entire criticism of patriarchalism would collapse. Absent the limiting principle of divine workmanship, a radical denial of natural liberty and equality would be entailed by Locke's extensionalist theory of property. For all parents would then have absolute dominion over the products of their reproductive labor. The consequence of denying the essential role of God in Locke's theory of property is serious. If, as Locke insists, the right to use all "inferior creatures...which were serviceable to his subsistence" was possessed *prior* to God's verbal donation and specification, then we would have to ask a troubling question: why should children or infants be excluded from the set of inferior creatures serviceable to one's subsistence? It is not a gratuitous example for Locke. He relates Garcilaso de la Vega's report, of child cannibalism in his *Commentarios Reales de Peru* in gruesome detail. This is not mere sensationalism, as Laslett suggests. Such a practice would be within parental property rights without the theological limiting condition. We suggest then that interpretations of Locke's theism as merely exoteric, such as those offered by proponents of the subversive theology thesis, entail the nullification of the refutation of Filmer and a Lockean sanctioning of child cannibalism. This would reduce the argument to absurdity.

We conclude then that it would have been plausible for Jefferson to read Locke's theory of property as theistic. How then might this account illuminate Jefferson's own understanding of "created equal"? Throughout his career, Jefferson expressed belief in the natural right of property. From his proposal of the primogeniture and education bills in the Virginia legislature, to the *Summary View*, to Jefferson's diplomatic mission, through his service under the federalist administrations and his presidency, the right of property is supposed as a matter of course. In Lockean fashion, Jefferson held that government operated justly when "restraining no man in the pursuits of honest industry, & securing to every one the property which that acquires" (Jefferson 1806). This is not to suggest that Jefferson did not also see grave danger for republics in conditions of massive disparity of property. But he always rejected equal distribution of property as unjust, and labored to secure property rights from the encroachments of arbitrary force, from British parliamentarians to Barbary pirates.

In a remarkable letter penned amidst the fervor of revolutionary France, Jefferson declared *the earth belongs in usufruct to the living*. Influential scholarly readings of this letter have suggested it was “resolutely secular” (Sloan 1993, 21). But, as we have seen, Jefferson disavowed adoption of the atheistic theses of the French philosophes, which he identified with Spinozistic pantheism (Cappon 1988, 592). It seems fitting, then, to reread Jefferson’s revolutionary republican theory of liberty and equality in this letter in light of his professed theistic commitments. Since Jefferson rejected pantheism, his references to “nature” in this letter should be read as synecdoche, for nature is the order that God created, and through which God acts.

Jefferson and Locke agree that human beings are born to political equality, inasmuch as they are subject to the rightful rule of their parents before coming of age. Coming of age, they are equal in their rights to acquire property and incur debts. Jefferson asserts that individuals cannot contract debts for more than 34 years, while 19 years is the maximum beyond which a *community* can contract a debt. Otherwise the present generation could mortgage the wealth of the next to fund their profligacy today. This would violate the rights over their soil, which come not from their predecessors, but from God. Once the majority of the ruling generation dies, they cease to have authority to bind “the persons and property [that] make the sum of the objects of government” (Peterson 1984, 963). To permit this, including attempted enforcement of any law older than nineteen years, “is an act of force and not of right,” like one independent nation trying to force its will on another (Peterson 1984, 963). This would violate the law of nature which is truly *law*, and is promulgated through the moral sense.

Jefferson thus extends Locke’s critique of patriarchalism in the family and monarchy to intergenerational patriarchalism *in democracy*. God’s gift of the land to the usufruct of the living entails that parents cannot collectively bind their children to pay for their own *pleonexia*. The concupiscent patriarchal generation stands in a state of nature relation to the ‘living generation’, and violates the law of nature in its violent force. This is deeply theistically Lockean, for God creates every generation equally and authors the law that binds persons to respect equality. Thus it is God’s ownership of the living generation that forbids the patriarchal generation from enslaving it to pay for its debts.

Contrary to the subversive theology thesis, this conception is antithetical to Spinozistic pantheism (cf. Stewart 2014, 357–358). Since *Deus seu Nautura* has a sovereign right to all things, it follows that the parts that

constitute *Deus seu Nautura* (individuals) have rights coextensive with their power. In a Spinozistic state of nature, there is no sin or wrong, and the only limit to acquisition and disposal of property is power (Spinoza 1670, Ch. XVI). Whereas Spinozistic pantheism would justify patriarchal power in the intergenerational state of nature as “right,” Jefferson’s Lockean-theistic account of equality and property condemns it as force without right. This is the logical ground upon which Jeffersonian democratic theory condemns all violations of natural human rights as unreasonable, because such justifications are always logically incompatible with God’s authorship of natural rights.

CONCLUSION

Some scholars object that we should not take at face value Jefferson’s explanation of the divine pedigree of conscience, the precepts of natural-law, and his theological professions to Adams, for he may conceal his skepticism even in his private letters (cf. Hitchens 2009, 182; Pangle 1987, 289, n. 17; Zuckert 1996, 87–89). Indeed, it might be argued that such letters are paternal cajolery on par with the alleged “noble lies” advanced by Jefferson throughout his career — a sort of surface message or impression that conceals deeper atheistic beliefs and intentions. In this vein, Arthur Melzer has recently suggested Jefferson was engaged in political esotericism, a project to actualize a harmony between reason and political life through “gradual subversion of traditional society and its replacement with a philosophically grounded politics” (Melzer 2014, 235–236).

Doubtless Jefferson had faith in the progress of reason and science — but it is doubtful that he cloaked his skepticism or atheism in his letters to Adams. In one letter we already quoted from, Jefferson bluntly denounces belief in the Trinity as absurd tri-theism and accuses Calvin of atheism. Jefferson even goes so far as to say that the Incarnation and the Virgin Birth will be classed as a fable on par with Jupiter’s generation of Minerva from his brain. The concealment thesis supposes that the *really* naughty thing is Jefferson’s atheistic belief, as if classing the vast majority of American Christians with polytheistic paganism were a safe exoteric teaching.

The burden of proof is on the interpreter who would reduce Jefferson’s providential-moralistic theism to intentional deception, whatever its alleged purpose. We have argued, in contrast, there is strong evidence

that Jefferson shared in the general consensus of the colonists, that “Nature’s God” symbolically expressed providential, moralistic theism as the essential foundation of natural rights, *precisely in virtue of* God’s creation of nature. Even as he seeks to transcend and improve upon what he takes to be the superstitions of a corrupted Christianity, Jefferson nevertheless retains a natural theology that is in important respects consistent with the classical tradition. For Jefferson, Nature’s God is not the god of philosophical pantheism, in which *Deus seu Natura* is indistinguishable from an uncreated and eternal universe. The structure of the Declaration, even in Jefferson’s own initial draft, depends for its force and coherence on the notion that “all men are created equal” and “from that equal creation they derive rights inherent & inalienable” (Boyd 1950, Vol. 1, 243–247).

NOTES

1. Whether he knew it or not, when Jefferson cited Tertullian’s view of God as corporeal as a patristic support, he was following Hobbes’s lead (see Hobbes, *English Works* IV, 383).

2. While Jefferson approvingly quotes Toledo’s characterization of Aquinas as “theologorum primus,” or first of the theologians, his knowledge of Aquinas seems to be mediate, since no copies of Aquinas’s works appear to be recorded in Jefferson’s pre and post retirement libraries. It is noteworthy that Madison recommended to Jefferson that Aquinas be included in the library of the University of Virginia, when Jefferson requested assistance with creating an excellent catalog in divinity (Madison 1824).

3. See, e.g., Ford 1904, Vol. 2, 20, 45–46; Vol. 3, 150 and 189; Vol. 4, 22, 120, 134; Vol. 5, 120, 176, 178; Vol. 7, 229, 233; Vol. 9, 162; Vol. 11, 47, 98, 148, 151; Vol. 12, pp. 138, 245.

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